

Senate File 362 - Introduced

SENATE FILE 362

BY T. TAYLOR

A BILL FOR

1 An Act relating to bidder qualifications with respect to county
2 and city public contracts.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 26.16, Code 2019, is amended to read as
2 follows:

3 **26.16 Prequalification requirements prohibited.**

4 A governmental entity, other than a county or city as
5 provided in sections 331.341 and 364.4, shall not by ordinance,
6 rule, or any other action relating to contracts for public
7 improvements for which competitive bids are required by this
8 chapter impose any requirement that directly or indirectly
9 restricts potential bidders to any predetermined class of
10 bidders defined by experience on similar projects, size of
11 company, union membership, or any other criteria. However, a
12 governmental entity shall require nonresident bidders to comply
13 with [section 73A.21, subsection 4](#).

14 Sec. 2. Section 331.341, Code 2019, is amended by adding the
15 following new subsections:

16 NEW SUBSECTION. 6. *a.* Notwithstanding section 26.16, the
17 board may, before making available a form for bid proposals,
18 plans, and specifications to a prospective bidder, except
19 suppliers and others not intending to submit a direct bid,
20 require the prospective bidder to submit a full and complete
21 sworn statement of qualifications. The statement shall consist
22 of documentation relating to the following:

- 23 (1) Financial ability to perform.
- 24 (2) Possession of necessary equipment.
- 25 (3) Experience in the work prescribed in the public
26 contract, including but not limited to safety record.
- 27 (4) Other matters that the board may require for the
28 protection and welfare of the public in the performance of a
29 public contract, including but not limited to the following:
 - 30 (a) Background checks.
 - 31 (b) Third-party drug testing.
 - 32 (c) Accredited apprenticeship.
 - 33 (d) Continuing education.
 - 34 (e) Training pursuant to section 88.16.
 - 35 (f) Applicable licensing.

1 *b.* The statement shall be in writing on a standard form
2 adopted and furnished by the board. The statement shall be
3 received not less than five days prior to the time set for
4 the opening of bids. The contents of the statement shall
5 be confidential and may not be disclosed except upon the
6 written authorization of the prospective bidder furnishing the
7 statement, for necessary use by the board in qualifying the
8 prospective bidder, or in cases of actions by or against the
9 prospective bidder or the board. The board shall evaluate
10 the statement and shall find the prospective bidder either
11 qualified or unqualified.

12 NEW SUBSECTION. 7. A bid shall not be accepted from a
13 prospective bidder who has not submitted the statement as
14 provided in subsection 6, provided that any prospective bidder
15 who has previously submitted a statement to the satisfaction of
16 the board may be exempt from resubmitting the statement if so
17 determined by the board.

18 Sec. 3. Section 364.4, Code 2019, is amended by adding the
19 following new subsection:

20 NEW SUBSECTION. 6. *a.* (1) Before making available a form
21 for bid proposals, plans, and specifications to a prospective
22 bidder, except suppliers and others not intending to submit a
23 direct bid, require the prospective bidder to submit a full and
24 complete sworn statement of qualifications, notwithstanding
25 section 26.16. The statement shall consist of documentation
26 relating to the following:

- 27 (a) Financial ability to perform.
28 (b) Possession of necessary equipment.
29 (c) Experience in the work prescribed in the public
30 contract, including but not limited to safety record.
31 (d) Other matters that the city may require for the
32 protection and welfare of the public in the performance of a
33 public contract, including but not limited to the following:
34 (i) Background checks.
35 (ii) Third-party drug testing.

1 (iii) Accredited apprenticeship.

2 (iv) Continuing education.

3 (v) Training pursuant to section 88.16.

4 (vi) Applicable licensing.

5 (2) The statement shall be in writing on a standard form
6 adopted and furnished by the city. The statement shall be
7 received not less than five days prior to the time set for
8 the opening of bids. The contents of the statement shall
9 be confidential and may not be disclosed except upon the
10 written authorization of the prospective bidder furnishing
11 the statement, for necessary use by the city in qualifying
12 the prospective bidder, or in cases of actions by or against
13 the prospective bidder or the city. The city shall properly
14 evaluate the statement and shall find the prospective bidder
15 either qualified or unqualified.

16 b. A bid shall not be accepted from a prospective bidder
17 who has not submitted the statement as provided in paragraph
18 "a", provided that any prospective bidder who has submitted a
19 statement to the satisfaction of the city may be exempt from
20 resubmitting the statement if so determined by the city.

21 EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 This bill allows a county or city to require a potential
25 bidder on a public contract to submit a statement that consists
26 of documentation demonstrating the bidder's ability to fulfill
27 the contract. The statement shall be in writing on a form
28 adopted by the county or city. The county board or municipal
29 authority shall evaluate a submitted statement and determine
30 whether a bidder is qualified. A county or city shall not
31 accept a bid from a person who has not submitted the required
32 statement unless the person had submitted a statement for a bid
33 on a prior contract and the county or city so allows.